



Kansas Department of Health and Environment

Nursing Facilities Program

"FACT SHEET"

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New Regulation Interpretations

Attached to this *Fact Sheet* are four interpretations: 94-1, 94-2, 94-3, and 94-4. Please insert these into your *Regulation Interpretation Manual* and replace the current table of contents.

Regulation Change - Nurse Aide Training

Below is a listing of policy changes to the nurse aide training program and the effective dates:

- The examination fee of \$7.50 for nurse aide certification has been replaced with a \$10 certification application fee. Applications for the examination received on and after April 1, 1994 must be accompanied with the \$10 fee.
- The term "limited" will no longer be printed on nurse aide certificates for persons taking the oral examination. The Americans with Disabilities Act prohibits special identification of persons with disabilities. This will become effective on April 1, 1994.

If a facility desires to verify an applicant's reading ability, the facility may choose to incorporate a reading comprehension test into the requirements for the position or screen a person during the interview process.

- Individuals may request a reasonable accommodation or auxiliary aid for a disability by filling out an accommodation form. The instructor must verify the need for the accommodation by signing the accommodation form. The requirement that the accommodation requested be the same one as used in the course has been deleted.
- The qualifications for a certified nurse aide course instructor are: register nurse with two years licensed practical nurse and/or registered nurse experience with at least one year as a full-time licensed nurse in an adult care home and/or hospital long term care unit. A course in teaching adults or experience in teaching adults, or supervising nurse aides is also required. Implementation date: February 28, 1994.

The *Fact Sheet* is published by the Kansas Department of Health and Environment.

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Robert C. Harder, Secretary
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- Any person providing any part of the nurse aide training shall do so only under the direct supervision of the course instructor. This person must have one year of experience in the field in which they are providing training. Implementation date: February 28, 1994.
- Any course instructor or course sponsor who does not fulfill the requirements of the regulations, curriculum, or instructor manual may be disciplined by the agency. Such action may include: probation; demonstration of compliance; periodic evaluations; or disapproval from teaching or sponsoring a course for two years. Implementation date: February 28, 1994.

Regulation Change - *Medication Aide Training*

Policy changes related to the medication aide training program:

- Each certified nurse aide and qualified mental retardation professional (with the QMRP employed in an intermediate care facility for the mentally retarded) must pass a reading test for comprehension to be eligible to enroll in a medication aide course. The course sponsor and instructor are responsible for ensuring that each trainee is pre-screened and tested for reading comprehension at the eighth grade level prior to enrolling in the course. Implementation date: February 28, 1994.
- Each medication aide is responsible for notifying the Credentialing Program of any address or name changes. Implementation date: February 28, 1994.
- The medication aide update fee of \$4 has been replaced with a certification application fee of \$10. Implementation date: Any application received on or after April 1, 1994.
- Professional health care related associations approved by the Credentialing Program may provide medication aide continuing education. Implementation date: February 28, 1994.
- Any course instructor or course sponsor who does not fulfill the requirements of the regulations, curriculum, or instructor manual may be disciplined by the agency. Action may include: probation; demonstration of compliance; periodic evaluations; or disapproval from teaching or sponsoring a course for two years. Implementation date: February 28, 1994.
- A 60-hour medication aide course shall consist of classroom and clinical instruction. Clinical instruction involves the administration of medications under the direct supervision of the course instructor. Implementation date: February 28, 1994.

Registry Operator Change

We want to wish Ruby Trier a warm farewell and best wishes on her new position with the Department of Transportation. Ruby has operated the Registry for the past 3 years. Her last day is March 25, 1994. Until her replacement is hired, Stacey, Lori and Pam will be answering the registry phone.

Adult Care Complaint Program Update

There were many valuable comments and questions from the fall licensure training programs, and as promised, an interpretation is included in this issue regarding agency policy on directives relating to the abuse, neglect, exploitation and failure to provide minimal standards of care (eg K.A.R. 28-39-150, KSA 39-1401 et seq., 42 CFR 483.13, and the *State Operations Manual*).

SOM Update - KDHE complaint program staff is involved in revising the federal *State Operations Manual* (SOM) through a request from the HCFA Region VII office. This task is expected to be rather lengthy, since the SOM includes much more than just complaint investigation directives. However, it affords the state agency an opportunity to participate in the review of a crucial HCFA document.

Statistics - One request from the fall licensure program series was for more consistent data on the complaint

program. As was pointed out during the presentation, the KDHE adult care complaint program is in the midst of a major database change, therefore the following information is accumulated through existing data resources. The database program slated for implementation by spring of 1994 will readily provide statistical information for future issues.

STATS 9/1/93 - 2/28/94			
TOTAL Complaint Calls Assigned for Investigation			1203
ANE Investigations		Care Issues Investigated	
TOTAL	182	TOTAL	1021
September	38	September	182
October	18	October	167
November	22	November	176
December	28	December	149
January	37	January	181
February	39	February	166

ALLEGED PERPETRATORS - Administrative Review Class				
	Total Cases	Pending	Declined	Referred
ACH Admin.	6	0	0	6
RNs	3	2	0	1
LPNs	7	4	0	3
CNAs/CMAs	71	40	6	47

ADMINISTRATIVE HEARINGS ON CNAs/CMAs	
Held	23
Confirmed	8
Unconfirmed	9
Pending Decision	3
Appeal - (by alleged perpetrator)	2
Appeal withdrawn	1
Dismissed	2

KDOA Complaint Statistics Reports

The Kansas Department of Health and Environment and the Kansas Department on Aging (KDOA) Long Term Care Ombudsman (LTCO) have had dialogue concerning data the LTCO program had been disseminating. According to the State Long Term Care Ombudsman, Myron Dunavan, the KDOA data is available in cumulative form for facilities to review and may be useful for facilities to identify potential areas for improvement or to identify consumer perceptions.

Currently, the program does not have the capacity to report the outcome of complaints reported to the LTCO program, but plans are being developed to accomplish this in the near future.

It has been **erroneously** presumed this information reflects the KDHE Adult Complaint Program statistics. The data has previously been made available to anyone who desired this information. The data does not contain dates, names or other confidential information and would help a facility identify potential areas for improvement or consumer perceptions of the facility, according to Dunavan. The data may stimulate perceptions that certain facilities are "bad" due to the number of complaints attributed to the facility.

Dunavan states that callers who requested the report were advised that it did not reflect any "confirmed or justified" investigatory status. He further advises that callers were counseled about reviewing the latest licensing survey report, talking with residents, resident families, and observing at the facility to assure it will meet the needs of an individual needing nursing home placement. Due to confusion and misconceptions about the reports, the LTCO program of the KDOA will now limit the distribution of the complaint "log" reports to facilities and regulatory agencies. In the future, a report may be generated which reflects those cases which are considered "confirmed or justified" for the general public.

Facility administrative staff must report suspected abuse, neglect or exploitation in accordance with the state statute to KDHE. Reports of care-related issues are reportable to KDHE or KDOA. KDOA may investigate the issues, advise the complainant or refer him/her to KDHE. Failing to report abuse, neglect or exploitation to KDHE may result in administrative actions, such as deficiencies, correction orders, fines, or referral to professional regulatory boards. Abuse is a serious issue and failing to report is an inappropriate response to any perceived adverse publicity.

All of the interested parties in the adult care home industry need to work together to assure the quality of care to all residents.

Please contact Lesa Bray, RN, Field Services Manager, at (913) 296-0131 or send questions via facsimile at (913) 296-1266.

RAI Workshops

RAI workshops have been scheduled for May 25 and June 14 at the Kaw Valley Vocational Technical School in Topeka. These workshops are designed for licensed nurses and other health care professionals responsible for performing the resident assessment or MDS+ and RAPs. Participants are to bring a copy of the *MDS+ Reference Manual*. Manuals may be purchased by contacting Med-Pass, Inc. at (800) 438-8884.

The workshops will begin at 10:00 a.m. to 4:00 p.m. and will be held at the Kaw Valley Vocational Technical School located at 5724 SW Huntoon. Participants should follow the signs to the convention center located behind the main building.

<u>Date of RAI Workshop</u>	<u>Last Day to Enroll</u>
May 25, 1994	May 20, 1994
June 14, 1994	June 10, 1994

Attendance at the workshops will be limited to 30 participants with no more than two persons from a facility. A completed enrollment form must be mailed to the Bureau of Adult and Child Care before the last day of enrollment. Late enrollments will not be accepted nor will individuals be allowed to attend who have not pre-enrolled. All persons who submit an enrollment form will be notified by mail as to whether or not they are enrolled in the workshops. Workshops will be cancelled in the event of bad weather. THERE IS NO CHARGE FOR THE WORKSHOPS. CONTINUING EDUCATION CREDITS WILL NOT BE OFFERED. Enrolled participants are requested to notify the Bureau in the event they are unable to attend. Persons on the waiting list will be given the opportunity to attend.

Amendment of K.S.A. 39-936 - CNA Requirement in ICF's/MR

The 1994 Legislature amended K.S.A. 39-936 (c)(I) to allow community based intermediate care facilities for mentally retarded (ICF/MR) licensed as adult care homes an exception from certified nurse aide training and education requirements found in K.S.A. 39-936. The ICF/MR must still meet the state licensure requirements for training of unlicensed staff. State licensure requirements are found in K.A.R. 28-39-226. The federal regulations and survey tag numbers related to licensing and educational requirements are as follows:

<u>Federal Regulations</u>	<u>Tag Numbers</u>
42 CFR 483.420 (a)(3)	W125
42 CFR 483.420 (d)(1)	W149
42 CFR 483.420 (d)(1)(i)	W150
42 CFR 483.430 (b)(4)	W169
42 CFR 483.430 (e)(I)	W189
42 CFR 483.430 (e)(2)	W190, W191 and W192
42 CFR 483.430 (e)(3)	W193
42 CFR 483.430 (e)(4)	W194
42 CFR 483.440 (a)(1)	W196
42 CFR 483.440 (c)(4)(iv)	W232
42 CFR 483.440 (d)(3)	W251
42 CFR 483.450 (d)(5)	W304 and W305
42 CFR 483.450 (e)(4)(i)	W315
42 CFR 483.460 (c)(5)(i)(ii) and (iii)	W340, W341 and W342
42 CFR 483.470 (h)(2)	W439
42 CFR 483.470 (I)(1)	W454 and W455

This statute amendment does not affect:

1. State hospitals for the mentally retarded;
2. nursing facilities;
3. nursing facilities for mental health; or,
4. medication aide requirements in community based ICF's/MR.

The effective date of this statute amendment is July 1, 1994.

Resources for Quality Care

The sixth edition of the *Kansas Diet Manual* has been published. Diets are listed with a description of the specific diet, nutritional adequacy statements, expanded food guidelines, sample meal patterns, sample menu, and when appropriate, modifications and special comments. Order from the Kansas Dietetic Association, PO Box 8704, Wichita, Kansas 67208. Manuals are available in paperback or punched pages with tabs for \$20. A deluxe manual in a ring binder is available for \$25. The 1989 *Liberalized Geriatric Diet Manual* is \$5.00. Add 5.9% tax or send a tax-exempt number.

Plastic Cutting Boards

A number of questions have been received related to the use of plastic cutting boards. A study reported by the press conducted by the Food Research Institute questioned the use of plastic cutting boards. A more recent study by the Agricultural Research Service affirms the use of plastic cutting boards. Facilities need to ensure that all cutting boards are thoroughly cleaned after each use.

Licensure Category	Civil Penalties				Correction Orders 1993 Quarters			
	1st	2nd	3rd	4th	1st	2nd	3rd	4th
Inadequate or inappropriate hygiene and skin care	5	5	3	4	18	13	14	19
Inadequate or unqualified staffing	1	3	3	-	4	8	12	17
Inoperable or inaccessible call system	-	1	-	-	5	3	5	2
Inappropriate or unauthorized use of restraints	3	-	2	1	17	5	4	12
Unsafe medication administration or storage	-	2	-	-	5	8	1	2
Inadequate nursing services other than skin care	3	2	5	5	14	12	16	15
Inadequate or inappropriate asepsis technique	1	-	2	-	4	6	3	4
Inadequate or inappropriate dietary/nutritional services	-	1	3	1	5	5	6	8
Unsafe storage of hazardous or toxic substances	-	-	-	-	-	1	1	1
Failure to maintain equipment	-	-	-	1	1	2	3	3
Resident right violations	-	-	5	2	11	5	11	7
Unsafe high water temperature	-	1	-	-	5	4	2	1
Inadequate hot water	-	-	-	-	-	-	-	-
General sanitation and safety	1	1	1	2	7	2	5	4
Other (including inappropriate admission)	-	-	-	-	2	-	2	3
Inadequate rehabilitation services	-	-	-	-	-	-	2	3
Immediate Civil Penalties	0	0	1	4				
Civil Penalties	8	11	8	14				
Correction Orders	37	39	34	30				
Bans on Admission	3	7	4					
Denials	0	1	2					

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
BUREAU OF ADULT AND CHILD CARE

Fact Sheet SUBSCRIPTION for 1994

**NOTE: THE *FACT SHEET* IS MAILED WITHOUT CHARGE TO
LICENSED ADULT CARE HOMES, HOSPITAL BASED LONG
TERM CARE UNITS, AND INTERMEDIATE CARE FACILITIES
FOR THE MENTALLY RETARDED.**

Name_____ (please print or type)

Address_____

City_____State____Zip Code_____

Enclose check or money order for \$10.00 and mail to:

Kansas Department of Health and Environment
Bureau of Adult and Child Care
900 S.W. Jackson, Suite 1001
Topeka, KS 66612-1290

For Office Use Only

Date received _____

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
RESIDENT ASSESSMENT INSTRUMENT WORKSHOP

ENROLLMENT FORM

Name Title

Title Name

Facility

Telephone Number

We wish to enroll in the following workshop:

May 25, 1994 _____ June 14, 1994 _____

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The workshops will be held 10:00 a.m. to 4:00 p.m. at the Kaw Valley Vocational Technical School, 5724 SW Huntoon, Topeka.

Mail enrollment form to: RAI ENROLLMENT
 Bureau of Adult and Child Care
 Kansas Department of Health and Environment
 900 SW Jackson, Suite 1001
 Topeka KS 66612-1290

Enrollments must be received by the date listed in the *Fact Sheet*. Late enrollments and enrollment at the door will not be accepted.

Participants will be notified if the workshop is cancelled for lack of sufficient enrollment. There is no charge for this workshop, therefore continuing education credit will not be offered.

Participants must bring a current copy of the *MDS+ Reference Manual*.